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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,103	09/21/2005	Tokuji Okamura	053135	8437
38834	7590	07/20/2009		
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP			EXAMINER	
1250 CONNECTICUT AVENUE, NW			GRANT, ALVIN J	
SUITE 700			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20036			3723	
		MAIL DATE	DELIVERY MODE	
		07/20/2009	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/550,103	<b>Applicant(s)</b> OKAMURA, TOKUJI
	<b>Examiner</b> ALVIN J. GRANT	<b>Art Unit</b> 3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 April 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1, lines 10 and 11 recite the phrase "the base part of the wire (12) is provided with a coming-off preventing bent" which is awkwardly and confusingly worded.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claim 1, as best understood,** is rejected under 35 U.S.C. 102(b) as being anticipated by Hideo, JP 10-155546.

Hideo discloses an inter-dental brush comprising: bristles (**at 2**); a wire (**1**) with which the bristles are twisted; and a handle (**5**) attached to the wire, wherein the handle is composed of a main body (**at 6**) and a sub-body (**at 5**), the main body is provided with a longitudinal hole (**4**) into which a base part of the wire is inserted, and a lateral hole (**8**)

intersecting the longitudinal hole the base part of the wire is provided with a bent portion (**10**) formed so as to be exposed to the lateral hole, and the sub-body (**at 5**) is provided with an engagement portion (**7**) filling the lateral hole so as to surround a periphery of the bent portion.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. **Claims 2-12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Hideo in view of Blass 6,325,626.

Hideo is described above. Referring 2-4, Hideo does not specifically disclose the body and sub-body being different from each other; and are made of synthetic resins. Blass discloses an Inter-dental brush having a main body and sub-body being different from each other so as to make the tool more flexible under stress; and being made of synthetic resin so as to optimize the strength of the handle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made Hideo's apparatus with the main body and sub-body being different from each other; and made them of synthetic resin as taught by Blass so as to respectively enhance the flexibility under stress; and optimize the strength of the handle.

**Referring to claims 5-8,** Hideo does not specifically disclose the main body and sub-body being configured as claimed. The configuration of the body parts is a matter of obvious design choice and is a matter of engineering expedient. It would have been an obvious matter of design choice to make the different portions of the main body and sub-body of whatever form or shape was desired or expedient. A change in form or shape is generally recognized as being within the level of ordinary skill in the art, absent any showing of unexpected results. *In re Dailey et al.*, 149 USPQ 47.

**Referring to claims 9-12,** Hideo as modified, in disclosing the apparatus also disclosed the claimed method steps.

#### ***Response to Arguments***

8. Applicant's arguments filed 4/17/08 have been fully considered but they are not persuasive.

In response to Applicant's arguments that Japanese Patent JP 10-155546 (to Hideo) does not disclose an engagement portion filling the hole, the push stick can be considered as engagement portions. Please note that the claims are read in light of the specification but the contents of the specification are not read into the claims.

In response to Applicant's arguments regarding the combination of the Hideo reference with US Patent No. 6,325,626 (to Blass), Hideo discloses the apparatus except for the material (synthetic resin) from which it's made. Blass teaches that dental brushes are made of synthetic resin.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALVIN J. GRANT whose telephone number is (571)272-4484. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alvin J Grant/  
Examiner, Art Unit 3723